



DEPARTMENT OF COMMERCE

International Trade Administration

[A-489-844]

Certain Aluminum Foil from the Republic of Turkey: Final Affirmative Determination of Sales at Less Than Fair Value

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) determines that imports of certain aluminum foil (aluminum foil) from the Republic of Turkey (Turkey) are being, or are likely to be, sold in the United States at less than fair value (LTFV) during the period of investigation, July 1, 2019, through June 30, 2020.

DATES: Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Bryan Hansen, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-3683.

SUPPLEMENTARY INFORMATION:

Background

On May 4, 2021, Commerce published in the *Federal Register* its preliminary negative determination in the LTFV investigation of aluminum foil from Turkey, in which it also postponed the final determination until September 16, 2021.¹ We invited interested parties to comment on the *Preliminary Determination*. A summary of the events that occurred since

¹ See *Certain Aluminum Foil from the Republic of Turkey: Preliminary Negative Determination of Sales at Less Than Fair Value, Postponement of Final Determination*, 86 FR 23686 (May 4, 2021) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum.

Commerce published the *Preliminary Determination* may be found in the Issues and Decision Memorandum.²

Scope of the Investigation

The product covered by this investigation is aluminum foil from Turkey. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

In accordance with the *Preamble* to Commerce's regulations,³ the *Initiation Notice*⁴ set aside a period of time for parties to raise issues regarding product coverage (*i.e.*, scope).⁵ Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice*, and we addressed these comments in the Preliminary Scope Decision Memorandum.⁶ Interested parties were provided an opportunity to comment on the Preliminary Scope Decision Memorandum.⁷ We received no scope case briefs requesting changes to the scope of the investigation from interested parties in any of the LTFV or countervailing duty investigations of aluminum foil from the Republic of Armenia, Brazil, the Sultanate of Oman, the Russian Federation, and Turkey. Additionally, we received a letter from the petitioners⁸ urging Commerce to maintain the same scope language which was set forth in both the *Initiation Notice* or *Preliminary Determination*.⁹ *See* Appendix I to this notice for the final scope of the investigation.

² *See* Memorandum, "Issues and Decision Memorandum for the Final Affirmative Determination in the Less-Than-Fair-Value Investigation of Certain Aluminum Foil from the Republic of Turkey," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

³ *See Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27323 (May 19, 1997).

⁴ *See Certain Aluminum Foil from the Republic of Armenia, Brazil, the Sultanate of Oman, the Russian Federation, and the Republic of Turkey: Initiation of Less-Than-Fair-Value Investigations*, 85 FR 67711 (October 26, 2020) (*Initiation Notice*).

⁵ *Id.*

⁶ *See* Memorandum, "Antidumping and Countervailing Duty Investigations of Certain Aluminum Foil from the Republic of Armenia, Brazil, the Sultanate of Oman, the Russian Federation, and the Republic of Turkey: Preliminary Scope Decision Memorandum," dated April 27, 2021 (Preliminary Scope Decision Memorandum).

⁷ *Id.*

⁸ The Aluminum Association Trade Enforcement Working Group and its individual members, Granges Americas Inc.; JW Aluminum Company; and Novelis Corporation constitute the petitioners.

⁹ *See* Petitioners' Letter, "Certain Aluminum Foil from the Republic of Armenia, Brazil, the Sultanate of Oman, the Russian Federation, and the Republic of Turkey – Petitioners' Final Scope Comments," dated September 8, 2021.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs that were submitted by parties in this investigation are addressed in the Issues and Decision Memorandum. A list of the issues addressed in the Issues and Decision Memorandum is attached to this notice at Appendix II. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn>.

Verification

Commerce was unable to conduct on-site verification of the information relied upon in making its final determination in this investigation. However, we took additional steps in lieu of an on-site verification to verify the information relied upon in making this final determination, in accordance with section 782(i) of the Tariff Act of 1930, as amended (the Act).¹⁰

Changes Since the Preliminary Determination

Based on our analysis of the comments received, we made certain changes to the margin calculations for this final determination. For a discussion of these changes, *see* the "Changes from the Preliminary Determination" section of the Issues and Decision Memorandum.

All-Others Rate

Section 735(c)(5)(A) of the Act provides that the estimated weighted-average dumping margin for all other producers and exporters not individually investigated shall be equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated excluding rates that are zero, *de minimis*, or determined

¹⁰ See Commerce's Letter, in-lieu of on-site Verification Questionnaire to the Assan Single Entity, dated July 9, 2021. Commerce determines that Assan Aluminyum Sanayi ve Ticaret A.S.; Kibar Dis Ticaret A.S.; and Ispak Esnek Ambalaj Sanayi A.S. are a single entity (collectively, the Assan Single Entity). See the "Affiliation and Single Entity Treatment" section of the Issues and Decision Memorandum.

entirely under section 776 of the Act (*i.e.*, facts otherwise available). Commerce calculated an individual estimated weighted-average dumping margin for the Assan Single Entity, the only individually examined exporter or producer in this investigation. Because the only individually calculated estimated weighted-average dumping margin is not zero, *de minimis*, or based entirely on facts otherwise available, the estimated weighted-average dumping margin calculated for all other producers and/or exporters is equal to the estimated weighted-average dumping margin calculated for the single examined respondent, the Assan Single Entity, pursuant to section 735(c)(5)(A) of the Act.

Final Determination

The final estimated weighted-average dumping margins are as follows:

Exporter or Producer	Estimated Weighted-Average Dumping Margin (percent)
Assan Aluminyum Sanayi ve Ticaret A.S.; Kibar Dis Ticaret A.S.; and Ispak Esnek Ambalaj Sanayi A.S.	2.28
All Others	2.28

Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties in this final determination within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, Commerce will instruct U.S. Customs and Border Protection (CBP) to suspend liquidation of all appropriate entries of subject merchandise, as described in Appendix I of this notice, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the *Federal Register*. These suspension of liquidation instructions will remain in effect until further notice.

Pursuant to section 735(c)(1)(B)(ii) of the Act and 19 CFR 351.210(d), we will instruct CBP to require a cash deposit for estimated antidumping duties for such entries as follows: (1) the cash deposit rate for the companies listed above will be equal to the respondent-specific estimated weighted-average dumping margin determined in this final determination; (2) if the exporter is not a company identified above but the producer is identified above, then the cash deposit rate will be equal to the respondent-specific estimated weighted-average dumping margin established for that producer of the subject merchandise; and (3) the cash deposit rate for all other producers and exporters will be equal to the all-others estimated weighted-average dumping margin.

While Commerce normally adjusts cash deposits for estimated antidumping duties by the amount of export subsidies countervailed in a companion countervailing duty (CVD) proceeding when CVD provisional measures are in effect, we have not adjusted the estimated weighted-average dumping margins listed above because provisional measures in the companion CVD proceeding were no longer in effect as of July 3, 2021.¹¹ However, if both antidumping and CVD orders are issued as a result of these LTFV and CVD investigations, respectively, Commerce will address the export subsidy offset to determine the cash deposit for estimated antidumping duties when the antidumping order is published.

International Trade Commission Notification

In accordance with section 735(d) of the Act, we will notify the International Trade Commission (ITC) of the final affirmative determination of sales at LTFV. Because Commerce's final determination is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports or sales (or the

¹¹ See message number 1187402 dated July 6, 2021, "Discontinuation of suspension of liquidation in the countervailing duty investigation of aluminum foil from Turkey," where Commerce discontinued the suspension of liquidation of entries effective July 3, 2021, the first day provisional measures were no longer in effect. Although the provisional measures resulting from the CVD investigation have expired, we note that this final determination will initiate the provisional measures with regard to the LTFV investigation.

likelihood of sales) for importation of aluminum foil no later than 45 days after this final determination. If the ITC determines that such injury does not exist, this proceeding will be terminated, and all cash deposits posted will be refunded and suspension of liquidation will be lifted. If the ITC determines that such injury does exist, Commerce will issue an antidumping order directing CBP to assess, upon further instruction by Commerce, antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation, as discussed above in the “Suspension of Liquidation” section.

Notification Regarding Administrative Protective Orders

This notice will serve as a final reminder to the parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

Notification to Interested Parties

This determination and this notice are issued and published pursuant to sections 735(d) and 777(i)(1) of the Act, and 19 CFR 351.210(c).

Dated: September 16, 2021.

James Maeder,
Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

Appendix I

Scope of the Investigation

The merchandise covered by this investigation is aluminum foil having a thickness of 0.2 mm or less, in reels exceeding 25 pounds, regardless of width. Aluminum foil is made from an aluminum alloy that contains more than 92 percent aluminum. Aluminum foil may be made to ASTM specification ASTM B479, but can also be made to other specifications. Regardless of specification, however, all aluminum foil meeting the scope description is included in the scope, including aluminum foil to which lubricant has been applied to one or both sides of the foil.

Excluded from the scope of this investigation is aluminum foil that is backed with paper, paperboard, plastics, or similar backing materials on one side or both sides of the aluminum foil, as well as etched capacitor foil and aluminum foil that is cut to shape. Where the nominal and actual measurements vary, a product is within the scope if application of either the nominal or actual measurement would place it within the scope based on the definitions set forth above. The products under investigation are currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7607.11.3000, 7607.11.6090, 7607.11.9030, 7607.11.9060, 7607.11.9090, and 7607.19.6000.

Further, merchandise that falls within the scope of this proceeding may also be entered into the United States under HTSUS subheadings 7606.11.3060, 7606.11.6000, 7606.12.3045, 7606.12.3055, 7606.12.3091, 7606.12.3096, 7606.12.6000, 7606.91.3095, 7606.91.6095, 7606.92.3035, and 7606.92.6095. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Changes from the Preliminary Determination
- IV. Discussion of the Issues
 - Comment 1: Constructed Export Price Offset
 - Comment 2: Management Fees as U.S. Indirect Selling Expenses
 - Comment 3: Management Fees for Non-Subject Products
 - Comment 4: Bank Charges as Direct Selling Expenses
 - Comment 5: Section 232 Duties
 - Comment 6: Home-Market Rebates
 - Comment 7: Duty Drawback
 - Comment 8: Raw Material Metal Premium Costs
 - Comment 9: Hedging Gains and Losses as Cost of Manufacture
 - Comment 10: Adjustment to the Cost of Manufacture for Goods in Transit
 - Comment 11: Manual Adjustment Ratio
 - Comment 12: Packing Cost Offset in Reported Costs
 - Comment 13: General and Administrative (G&A) Expenses
 - Comment 14: Financial Expenses
- V. Recommendation

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